

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

Mike Fisher,	§	
Plaintiff,	§	
	§	
v.	§	2:20-CV-64
	§	
	§	
City of Amarillo, Ginger Nelson, for herself and	§	
as mayor of City of Amarillo, Elaine Hays, Eddy Sauer	§	
Freda Powell, Howard Smith, Amarillo National Bank,	§	
William Ware, II, Plaza Amarillo, LLC, Step	§	
Values, LLC dba Dunkin Donuts, Dunkin Brands, Inc.,	§	
Fresh Burger, LLC dba BurgerFi, Burger Fi Int'l, LLC	§	
Edit Clean, LLC dba Tide Dry Cleaners, The Proctor &	§	
Gamble Co., Five S Buildings, LLC, 45 <sup>th</sup> and Soncy,	§	
LLC	§	
Defendants.	§	

**DEFENDANTS, CITY OF AMARILLO, GINGER NELSON, ELAINE HAYS, EDDY SAUER, FRED POWELL, HOWARD SMITH, BRIEF-IN-SUPPORT OF MOTION TO DISMISS PLAINTIFF' S ORIGINAL COMPLAINT FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED PER FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6) AND PLEA TO THE JURISDICTION**

TO THE HONORABLE COURT:

Comes now the Defendants, City of Amarillo, Ginger Nelson, Elaine Hays, Eddy Sauer, Freda Powell, and Howard Smith, and files this Motion to Dismiss Plaintiff's Original Complaint under the Federal Rules of Civil Procedure 12(b)(6) and Plea to the Jurisdiction. Defendants arguments and authorities are set forth in its brief filed with this Motion and are incorporated herein for all purposes.

Respectfully submitted,  
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**ATTORNEYS FOR DEFENDANTS  
CITY OF AMARILLO, GINGER  
NELSON, FRED A POWELL, EDDY  
SAUER, ELAINE HAYS, HOWARD  
SMITH**

**CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2020 a true, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court, Northern District of Texas, using the electronic filing system of the Court and was served via e-filing on the following:

**Attorney for Plaintiff**

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